

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TALETHA MICHELLE COUSINS,

Plaintiff,

Case No. 19-cv-10996
Hon. Matthew F. Leitman

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

ORDER DIRECTING PLAINTIFF’S COUNSEL TO FILE REPLY BRIEF

In this action, Plaintiff Taletha Michelle Cousins challenged the denial of her application for Disability Insurance Benefits. (*See* Compl., ECF No. 1.) On July 8, 2020, the Court entered judgment in favor of Cousins and remanded this action to the Commissioner of Social Security for additional administrative proceedings. (*See* Judgment, ECF No. 22.) On remand, Cousins was awarded disability benefits.

On July 28, 2021, Cousins’ counsel filed a petition for attorney fees pursuant to 42 U.S.C. § 406(b). (*See* Pet., ECF No. 24.) In the petition, Cousins’ counsel seeks “an award of an attorney fee in the amount of \$9,022.15.” (*Id.*, PageID.713.) Counsel further indicated that if the Court awarded her that fee award, counsel would “repay [Cousins] \$3,500 – the amount that was previously awarded under the Equal

Access to Justice Act (“EAJA”).” (*Id.*, PageID.715.) The Commissioner does not appear to oppose counsel’s fee request. (*See* Resp., ECF No. 25.)

On August 24, 2021, Cousins’ counsel filed a “notice” with the Court. (*See* Notice, ECF No. 26.) In the notice, Cousins’ counsel informed the Court that her initial fee request was in error. Cousins’ counsel told the Court:

Petitioner hereby corrects one error made in the fee petition previously filed in this matter on July 28, 2021. In this petition, Petitioner wrote that the total fee received would be \$5,522 following repayment of the EAJA fees in this matter (Motion point #10). This is incorrect. Petitioner mistakenly subtracted the EAJA amount from the \$9,022.15 being sought in this matter, rather than for the total amount received in attorney fees. After repayment of the EAJA fees to Plaintiff, the total amount of attorney fees in this matter in this matter would be \$9,022.15, to be split between Petitioner and Daryl Royal (the previous federal attorney in this matter) after receipt. Nevertheless, Defendant has indicated in response to Petitioner’s motion that this amount (\$9,022.15) would not result in a windfall to Plaintiff’s attorneys.

(*Id.*, PageID.757.) The Commissioner responded to the Notice on August 24, 2021. (*See* Resp. to Notice, ECF No. 27.) The Commissioner argued that the notice was “confusing and incorrect.” (*Id.*, PageID.760.) The Commissioner further pointed out that “[i]t [was] unclear how the total amount of fees could be \$9,022.15 after repayment of EAJA fees to [Cousins].” (*Id.*) The Commissioner asserted that if the Court granted the fee petition, “it should award \$9,022.15 and direct that [Cousins’ counsel] refund \$3,500 to [Cousins].” (*Id.*, PageID.761.)

The Court agrees that the precise relief Cousins' counsel is seeking is unclear. Accordingly, Cousins' counsel shall file a reply brief in further support of her fee petition by no later than **November 23, 2021**. In the reply brief, Cousins' counsel shall (1) respond to the arguments made by the Commissioner in the Commissioner's August 24 response to counsel's notice, (2) identify precisely how much in fees that counsel is asking that the Court award her, and (3) identify how much of that fee award would be refunded to Cousins due to the previous award of EAJA fees.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: November 5, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 5, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(810) 341-9764